

## **ADMINISTRATIVE PROCEEDING**

**File No. 3-18068**

### **SEC Charges Investment Adviser for Failing to Disclose Conflict of Interest Arising from Revenue Sharing Arrangement and Failure to Seek Best Execution**

**July 19, 2017** – The Securities and Exchange Commission today announced that Seattle, Washington-based KMS Financial Services, Inc. agreed to settle charges that it failed to disclose to its advisory clients that it received revenue from a third-party broker-dealer and the resulting conflict of interest, and that it failed to seek best execution for advisory clients.

According to the SEC's order, since at least 2002, KMS participated in a program offered by its clearing broker whereby it agreed to share with KMS revenues it received from certain mutual funds. The SEC found that the payments created a conflict of interest because they provided a financial incentive for KMS to favor the mutual funds in the program over other investments when advising clients. KMS did not disclose the arrangement or the resulting conflict of interest.

The SEC's order further finds that in 2014, KMS, a dually-registered investment adviser and broker-dealer, negotiated a \$1 per trade reduction in the clearance and execution costs charged by the clearing broker when KMS acted as introducing broker. KMS, however, continued to charge advisory clients the same overall brokerage commission and thus did not pass this cost reduction on to its advisory clients, and did not consider whether advisory clients continued to receive best execution in light of the increased portion of the charges KMS kept.

The SEC's order finds that KMS violated Sections 206(2), 206(4), and 207 of the Investment Advisors Act of 1940, and Rule 206(4)-7 thereunder. Without admitting or denying the SEC's findings, KMS consented to a censure, a cease-and-desist order from committing or causing further violations of these provisions, and the payment of disgorgement of \$382,568.64 plus prejudgment interest, and a \$100,000 penalty.

The SEC's investigation was conducted by Heather E. Marlow and John Farinacci and supervised by Jeremy E. Pendrey of the Enforcement Division's Asset Management Unit. The SEC examination that led to the investigation was conducted by Kenneth P. Schneider, Erica R. Gould, James J. Marchi, Caroline Smith, and Matthew M. O'Toole.

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